

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**CAIN RESTAURANT CO.,**

**Plaintiff,**

**v.**

**CARROLS CORPORATION,**

**Defendant.**

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**CIVIL ACTION NO. 04-CV-74239-DT**

**HONORABLE DENISE PAGE HOOD**

**ORDER ACCEPTING REPORT AND RECOMMENDATION**

This matter is before the Court on Magistrate Judge Donald A. Scheer's Report and Recommendation dated June 22, 2005. An Objection to the Report and Recommendation by Carrols Corporation was filed on July 6, 2005.

The Court has had an opportunity to review the Report and Recommendation and finds that the Magistrate Judge reached the correct conclusion for the proper reasons. This case presents a dispute between the parties over the terms of a written lease containing an option to purchase. The Lease Agreement at issue pertains to only one restaurant property, located in Jackson, Michigan. Defendant claims the action must be dismissed for lack of ripeness or, in the alternative, the matter should be stayed.

The Court agrees with the Magistrate Judge that this matter is ripe for adjudication, and by granting declarative relief, it will promote the resolution of the parties' dispute. A final judicial determination as to the meaning of the contract content will provide the basis for an accurate and binding appraisal in this case.

Accordingly,

IT IS ORDERED that Magistrate Judge Scheer's Report and Recommendation dated June 22, 2005 is ACCEPTED and ADOPTED as this Court's findings of fact and conclusions of law.

IT IS FURTHER ORDERED that the Defendant's Motion to Dismiss for lack of Ripeness or, in the Alternative Stay (**Docket No. 15, filed April 6, 2005**) is DENIED.

/s/ DENISE PAGE HOOD

DENISE PAGE HOOD

United States District Judge

DATED: October 25, 2005

I hereby certify that a copy of the foregoing document was served upon counsel of record on October 25, 2005, by electronic and/or ordinary mail.

s/William F. Lewis

Case Manager